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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/820,015	04/08/2004	Kazuhiro Abe	086142-0665	8588
22428	7590	06/28/2006	EXAMINER	
FOLEY AND LARDNER LLP			MCCREARY, LEONARD	
SUITE 500				
3000 K STREET NW			ART UNIT	
WASHINGTON, DC 20007			PAPER NUMBER	
			3616	

DATE MAILED: 06/28/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/820,015	Applicant(s) ABE, KAZUHIRO	
	Examiner Leonard J. McCreary, Jr.	Art Unit 3616	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 April 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 April 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>11/15/04, 4/8/04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-6 and 9-13 stand rejected under 35 U.S.C. 102(b) as being anticipated by US 6,106,003 to Rahmstorf et al. Rahmstorf discloses an interior trim panel for motor vehicles fitted with an airbag comprising the following:

a. A protection device comprising: an airbag 9' arranged inside a member disposed in front of a seat; a gas generator 9 for inflating the airbag; and a cover 1 covering the airbag and configured to open when the airbag is inflated, wherein the cover is configured to break along tear lines 13 when the airbag is inflated to form a plurality of laterally arranged flaps (defined by 13") when the airbag is inflated (claim 1.)

b. The tear lines are positioned so that at least four laterally arranged flaps are formed (Fig. 4) (claim 2.)

c. The tear lines are positioned so that at least one flap opens upward and at least one flap opens downward (Fig. 4) (claim 3.)

- d. A breakable cover 1 for an airbag configured to deploy into a position, wherein the cover comprises a tear line 13 positioned so that when the cover breaks as a result of the inflation of the airbag a first portion of the cover rotates upward and a second portion of the cover rotates downward (Fig. 4) (claim 4.)
 - e. The first portion of the cover includes a plurality of flaps (Fig. 4) (claim 5.)
 - f. The second portion of the cover includes a plurality of flaps (Fig. 4) (claim 6.)
 - g. The tear line includes a plurality of vertical sections (Fig. 4) (claim 9.)
 - h. An airbag module comprising an airbag 9' and a frangible cover 1 overlying the airbag, wherein the cover includes a tear line 13 and a hinge portion positioned so that cover breaks a first portion of the cover rotates upward and a second portion of the cover rotates downward (Fig. 4) (claim 10.)
 - i. The first portion of the cover includes a plurality of flaps (Fig. 4) (claim 11.)
 - j. The cover includes additional tear lines positioned in the first portion of the cover to form the plurality of flaps (Fig. 4) (claim 12.)
 - k. The additional tear lines are parallel (Fig. 4) (claim 13.)
3. Claims 1-12 and 14 stand rejected under 35 U.S.C. 102(e) as being anticipated by US 6,550,803 to Derrick. Derrick discloses a covering for an airbag of an occupant restraint system comprising the following:
- l. A protection device comprising: an airbag arranged inside a member disposed in front of a seat; a gas generator for inflating the airbag; and a cover

10 covering the airbag and configured to open when the airbag is inflated, wherein the cover is configured to break along tear lines 12-19 when the airbag is inflated to form a plurality of laterally arranged flaps when the airbag is inflated (Fig. 2) (claim 1.)

m. The tear lines are positioned so that at least four laterally arranged flaps are formed (Fig. 2) (claim 2.)

n. The tear lines are positioned so that at least one flap opens upward and at least one flap opens downward (Fig. 2) (claim 3.)

o. A breakable cover for an airbag configured to deploy into a position for protecting an occupant of a vehicle seat, wherein the cover comprises a tear line 12-19 positioned so that when the cover breaks as a result of the inflation of the airbag a first portion of the cover rotates upward and a second portion of the cover rotates downward (Fig. 2) (claim 4.)

p. The first portion of the cover includes a plurality of flaps (Fig. 2) (claim 5.)

q. The second portion of the cover includes a plurality of flaps (Fig. 2) (claim 6.)

r. The tear line is positioned so that when the cover breaks a third portion of the cover rotates laterally (Fig. 2) (claim 7.)

s. The third portion of the cover includes a plurality of flaps (Fig. 2) (claim 8.)

t. The tear line includes a plurality of vertical sections (Fig. 2) (claim 9.)

u. An airbag module for protecting a vehicle occupant comprising an airbag and a frangible cover 10 overlying the airbag, wherein the cover includes a tear

line 12-19 and a hinge portion positioned so that cover breaks a first portion of the cover rotates upward and a second portion of the cover rotates downward (Fig. 2) (claim 10.)

v. The first portion of the cover includes a plurality of flaps (Fig. 2) (claim 11.)

w. The cover includes additional tear lines positioned in the first portion of the cover to form the plurality of flaps (Fig. 2) (claim 12.)

x. The cover is configured to break into the first portion, the second portion and a third portion, wherein the third portion is configured to rotate laterally in a direction generally orthogonal to the vertical direction (Fig. 2) (claim 14.)

4. Re claims 1, 4, and 10, the recitations "leg protection device" and "for protecting the legs of a vehicle occupant" have not been given patentable weight because it has been held that a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations. *Ex parte Masham*, 2 USPQ2d 1647 (1987.) Further, it has been held that a preamble is denied the effect of a limitation where the claim is drawn to a structure and the portion of the claim following the preamble is a self-contained description of the structure not depending for completeness upon the introductory clause. *Kropa v. Robie*, 88 USPQ 478 (CCPA 1951.) Rahmstorf and Derrick teach both apparatuses are for use in vehicle interiors to restrain the occupant during a collision, which also encompasses the occupants' lower extremities.

Conclusion

5. The following prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

y. US 2002/0195800 to Florsheimer discloses an airbag module cover comprising pluralities of upper and lower flaps wherein the tear seams are formed parallel to one another.

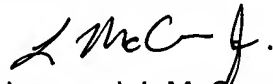
z. US 5,335,937 to Uphues et al. discloses a cover for vehicle occupant impact protection device comprising upper and lower pluralities of upper and lower flaps and flaps that open laterally.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Leonard J. McCreary, Jr. whose telephone number is 571-272-8766. The examiner can normally be reached on 0700-1700 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Dickson can be reached on 571-272-6669. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3616

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Leonard J. McCreary, Jr.
Examiner
Art Unit 3616



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